SB Civil Writ Petition No. 2439/2000

Kailash Chand Vs The Addl DIGP, Group Centre, CRPF & ors

23.8.2007

Hon'ble Mr Justice Ashok Parihar

Mr MR Yadav – for petitioner

Mr TP Sharma – for respondents

BY THE COURT:

Petitioner was appointed as Constable in the respondent Force after due selection on 5.4.1991 on the basis of requisite certificates submitted by him at the time of selection. Since the selection/appointment was subject to verification of the documents, the concerned authority wrote a letter to the Central Board of Higher Education, Vachaspati Bhawan, New Delhi on 3.7.1998 for verification of the documents only to the extent that whether the individual concerned really appeared for the examination of High School during the year 1989. After due verification of the record, the reply was sent by the institution on 13.7.1998 that the certificates submitted by the petitioner at the time of selection were genuine. It was only after receipt of the letter from the institution a memorandum was issued to the petitioner on 23.8.1998 as to why action against the petitioner should not be taken for violation of rule 20 of the Central Civil Services

(Conduct) Rules, 1964. The only ground for issuing the memorandum has been that the certificate of passing the High School produced by the petitioner was not from a recognised institution. After holding an enquiry, the penalty of removal from service has been imposed on the petitioner vide order dated 21.1.1999. All the medals and decorations, if any, earned by the petitioner had also been forfeited. The statutory appeal filed by the petitioner has been dismissed by the appellate authority vide order dated 25.8.1999 on the ground of limitation. The order of removal from service is under challenge in the present writ petition.

After hearing learned counsel for the parties, I have carefully gone through the material on record.

Admittedly, there is no allegation of any concealment or misrepresentation against the petitioner. Even the verification sought by the respondents from the institution was not in regard to recognition of the institution. More so, the particular institution also alleged to have been unrecognised by the respondents in the year 1994 only much after the appointment of the petitioner on the post of Constable. There is no explanation, whatsoever, on behalf of the respondents as to how and

under what circumstances the verification was sought from the concerned institution after more than 7 years that also only in regard to genuineness of the certificates. No adverse record, whatsoever, against the petitioner has been referred on behalf of the respondents. The appointment was made on the post lowest in the cadre. Having considered entire facts and circumstances, the authorities appear to have proceeded in the present case in just a mechanical manner. Under the circumstances, the impugned order of removal cannot be sustained in the eyes of law.

Accordingly, the writ petition is allowed. The impugned order of removal dated 21.1.1999 is set aside. The respondents are directed to reinstate the petitioner within thirty days from the date of receipt of certified copy of this order. Though, continuity of service shall be maintained and notional pay fixation at par with the persons appointed along with the petitioner, be made, however, the petitioner shall not get any back wages or monetary benefits during the intervening period.

(Ashok Parihar) J.

bnsharma